

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

IN RE:

Case No.: 6:18-bk-06259-KSJ

DANA MICALLEF
Debtor(s).

RESPONSE TO TRUSTEE'S OBJECTION TO DEBTOR'S CLAIM OF EXEMPTIONS

DEBTOR, by and through the undersigned attorney, hereby responds to Trustee's Objection to Debtor's Use of Exemptions (Doc. 75), as follows:

1. The Debtor admits the allegations set forth in Paragraphs 1, 2, 4, 5, 6, 7, 10, 11, 12, 13, 14, 15, 16 and 17.
2. As to Paragraphs 3, Debtor admits that Schedule C of his Petition claims the amount of \$700,000 as exempt homestead, but contends the homestead exemption is limited to the amount of equity as either determined by order of this Court or by agreement of the parties as the difference between the homestead value as of the Petition Date less mortgages and other liens on said property.
3. As to Paragraph 8 and 20, the homestead equity based on Debtor's purchase price and mortgage balance of \$332,624.97 would be \$288,375.00. Based on a value of \$850,000, the equity would be \$517,376, an increase of \$229,000. However, due to the recorded Federal tax lien of the Internal Revenue Service, a copy attached hereto, in the amount of 633,433.47, there is no equity available for distribution to any creditors in the event of liquidation by the Trustee and after recognition/payment of Debtor's exemption which may be limited to \$160,375.
4. As to Paragraph 18, Debtor would submit that the market value of the homestead property has increased due to both improvements made by Debtor and market appreciation.

WHEREFORE, Debtor respectfully requests this Court find that after deductions for claims secured by Debtor's homestead, and recognition of Debtor's homestead claim of \$160,375, there would be no non-exempt equity available for administration by the Trustee for the benefit of creditors, and therefore deny said objection, and allow the Debtor's homestead exemption in the amount as determined by this Court, any further relief this Court deems just and proper.

SNELL & SNELL, P.A.

By: 

WALTER J. SNELL, ESQ.

Florida Bar #729360

436 N. Peninsula Drive

Daytona Beach, FL 32118

(386) 255-5334/(386)-255-5335-fax

Attorney for Debtor

Email: snellandsnell@mindspring.com

Certificate of Service

I HEREBY CERTIFY that I have furnished a copy of the above and foregoing via Electronic Notice to Cynthia E. Lewis at clewis@lewismonroe.com; this ^{29th}~~27th~~ day of April, 2019.



Form 668 (Y)(c) (Rev. February 2004)	16999 Department of the Treasury - Internal Revenue Service Notice of Federal Tax Lien				
Area: SMALL BUSINESS/SELF EMPLOYED AREA #3 Lien Unit Phone: (800) 913-6050	Serial Number <div style="text-align: right;">323561118</div>				
For Optional Use by Recording Office					
As provided by section 6321, 6322, and 6323 of the Internal Revenue Code, we are giving a notice that taxes (including interest and penalties) have been assessed against the following-named taxpayer. We have made a demand for payment of this liability, but it remains unpaid. Therefore, there is a lien in favor of the United States on all property and rights to property belonging to this taxpayer for the amount of these taxes, and additional penalties, interest, and costs that may accrue.					
Name of Taxpayer DANA M MICALLEF					
Residence 1888 JOHN ANDERSON DR ORMOND BEACH, FL 32176-3207					
IMPORTANT RELEASE INFORMATION: For each assessment listed below, unless notice of the lien is refilled by the date given in column (e), this notice shall, on the day following such date, operate as a certificate of release as defined in IRC 6325(a).					
Kind of Tax (a)	Tax Period Ending (b)	Identifying Number (c)	Date of Assessment (d)	Last Day for Refiling (e)	Unpaid Balance of Assessment (f)
1040	12/31/2010		12/26/2016	01/25/2027	90.15
1040	12/31/2015		07/18/2016	08/17/2026	43682.21
1040	12/31/2016		03/19/2018	04/18/2028	
Place of Filing <div style="text-align: center;">CLERK OF CIRCUIT COURT VOLUSIA COUNTY DELAND, FL 32721</div>					Total \$ XXXXXXXXXX

This notice was prepared and signed at BALTIMORE, MD, on this,

the 11th day of September, 2018.

Signature <i>Jean Flach</i> for JOHN HOOPES	Title REVENUE OFFICER (386) 254-7317
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23-09-3736

(NOTE: Certificate of officer authorized by law to take acknowledgment is not essential to the validity of Notice of Federal Tax Lien
 Rev. Rul. 71-466, 1971 - 2 C.B. 409)